

ESTTA Tracking number: **ESTTA221120**Filing date: **06/30/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Clarke Power Products, Inc.
Granted to Date of previous extension	06/28/2008
Address	28740 Glenwood Road Perrysburg, OH 43551 UNITED STATES

Attorney information	Richard S. MacMillan MacMillan, Sobanski & Todd, LLC 720 Water Street One Maritime Plaza, 5th Floor Toledo, OH 43604 UNITED STATES macmillan@mstfirm.com Phone:(419) 255-5900
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Applicant Information

Application No	79038893	Publication date	04/29/2008
Opposition Filing Date	06/30/2008	Opposition Period Ends	06/28/2008
International Registration No.	0925197	International Registration Date	05/21/2007
Applicant	WUXI LIANHUA; SUPERHARD MATERIAL TOOLS CO.,LTD C-NO.35, Yangming High-tech Industrial Zone, Wuxi; Jiangsu CHINA		

Goods/Services Affected by Opposition

Class 007. All goods and services in the class are opposed, namely: machine parts, namely, circular blade saws

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77007214	Application Date	09/26/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CROCODILE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 007. First use: First Use: 2007/11/00 First Use In Commerce: 2007/11/00 power operated saws and power sawblades; attachments for power operated saws, namely vacuum attachments, pipe cutting attachments, and fences

Attachments	77007214#TMSN.jpeg (1 page)(bytes) Notice Of Opposition.pdf (3 pages)(19553 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/richardsmacmillan/
Name	Richard S. MacMillan
Date	06/30/2008

NOTICE OF OPPOSITION

Clarke Power Products, Inc. (Opposer), a corporation organized and existing under the laws of the State of Ohio and located at 28740 Glenwood Road, Perrysburg, Ohio 43551, believes that it will be damaged by registration of the mark shown in trademark application Serial No. 79/038,893 in International Class 7 in the name of Wuxi Lianhua; Superhard Material Tools Co., Ltd. (Applicant), a corporation of China, located at C-NO.35, Yangming High-tech, Industrial Zone, Wuxi, Jiangsu, China and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. On May 21, 2007, the Applicant filed an application to register a crocodile design and non-Latin characters (wherein the English translation of the foreign words in the mark is "crocodile") as a trademark for machine parts, namely, circular blade saws in International Class 7. This application was assigned Serial No. 79/038,893 and was published for opposition in the April 29, 2008 issue of the Official Gazette.
2. On September 26, 2006, prior to the filing date of the Applicant's registration application, the Opposer filed intent-to-use application Serial No. 77/007,214 to register its CROCODILE trademark in the United States Patent and Trademark Office. The Opposer's registration application is currently pending in the United States Patent and Trademark Office and is currently owned by the Opposer. The Opposer's registration application was published for opposition on September 4, 2007. On April 14, 2008, a Statement of Use was filed in connection with the Opposer's registration application, alleging a date of first use of at least as early as November of 2007. This Statement of Use was accepted by the United States Patent and Trademark Office May 29, 2008.
3. The Opposer has continuously used CROCODILE in interstate commerce as a trademark to identify its products since at least as early as November of 2007.

4. There is no issue as to priority. The September 26, 2006 filing date of the Opposer's registration application is clearly earlier than the May 21, 2007 filing date of the Applicant's registration application.

5. The Opposer has sold its products listed in its registration application under the mark CROCODILE throughout the United States. The Opposer has developed an exceedingly valuable goodwill in respect to the mark CROCODILE covered by the its registration application and the registration that is expected to mature from such application.

6. The Opposer has spent many dollars in developing its CROCODILE branded products, in expanding its business, and in advertising its products in the United States and in interstate commerce.

7. By virtue of its efforts, the expenditure of considerable sums for promotional activities, and the excellence of its products, the Opposer has gained for its above-identified mark a most valuable reputation.

8. The trademark proposed for registration by the Applicant, namely, crocodile design and non-Latin characters translated as "crocodile", is substantially identical to the Opposer's mark CROCODILE so that when the mark is applied to products similar to those sold by the Opposer, as, e.g., machine parts, namely, circular blade saws, it so nearly resembles the Opposer's mark as to be likely to be confused therewith and mistaken therefor. The Applicant's mark is deceptively similar to the Opposer's mark so as to cause confusion and lead to deception and mistake as to the origin of the Applicant's products bearing the crocodile design mark.

9. If the Applicant is permitted to use and register its mark for its products, as specified in the application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused. Such confusion and injury would result by reason of the similarity between the Applicant's mark and the Opposer's mark. Persons familiar with the Opposer's mark would be likely to buy the Applicant's products as and for a product made and sold by the Opposer. Any such confusion in trade inevitably would result in loss of sales to the Opposer. Furthermore, any defect,

objection, or fault found with the Applicant's products marketed under its mark would necessarily reflect upon and seriously injure the reputation which the Opposer has established for its products merchandised under its mark.

10. If the Applicant is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

WHEREFORE, the Opposer prays that the application Serial No. 79/038,893 in International Class 7 be rejected, and that the registration of the mark therein sought for the products therein specified in International Class 7 be denied and refused.

The Opposer hereby gives notice under Rule 2.122(d) of the Rules of Practice that after hearing and in any appeal on this opposition proceeding, it will rely on its registration maturing from its intent-to-use application as evidence in support of this Notice of Opposition. It is hereby authorized that the \$300.00 fee required in Section 2.6(a)(17) be charged against MacMillan, Sobanski & Todd, LLC Deposit Account No. 13-0005.